REMARKS

Entry of this AMENDMENT as reducing issues with respect to the election/restriction in particular by reducing the scope of the claims to the use of two compounds within the elected group. The two compounds are represented in the specification as Compound No. 2-78 and 1-94. Referring to original claim 14, these are the second and fourth species listed. (See also corresponding claim 41).

It is submitted that the issues with respect to the election/restriction are avoided by reducing the scope of the claims to these two compounds within the elected group.

There is a rejection of record based on the disclosure in Kimura et al. EP 0 799 823 and Strelkov et al., for reasons of record.

Kimura is cited for teaching analogous compounds of species of the present invention. (It is noted that the two species which are now in the claims are specifically disclosed in Kimura et al.) However, as stated by the Examiner, Kimura et al. does not teach the usefulness of these compounds to treat cachexia or disorders resulting from tumors.

The rejection relies on Strelkov et al. to teach that the inhibition of prostaglandin production counters tumor related

cachexia or muscle wasting and other deleterious side effects of tumors. This disclosure is stated to bridge the gap between the primary art and the present invention as claimed.

The Examiner takes the position that the teaching in Strelkov provides a reasonable expectation of success and that the McCarthy Article (not prior art) supports the Examiner's position that there was a reasonable expectation to use PG inhibitors in the treatment of cachexia in the prior art at the time of filing. This ignores the fact that the results of the experiments supports applicants' position that the art in fact is at best an invitation to experiment. The art fails to teach how to use prostaglandin inhibitors for the claimed method and only hypothesizes the possibility that they may be useful.

In addition, applicants note that at the time this invention was made, the most remarkable COX-2 inhibitor was Compound (III) which is now marketed by Pfizer under the name "Celebrex", and Compound (IV) which is now marketed by Merck under the name "Vioxx". Applicants believe that these two compounds represent the closest prior art and have an expectation of the best activity in the art.

However, as shown in the test data in the present specification (Tables 3, 4 and 5) Compound No. 2-78 and Compound No. 1-94 possess unexpectedly superior activity as anti-cachexia

agents. Referring to the data in Tables 3, 4 and 5, note is made especially at the "dose: 1 mg/kg" of the reported "weight gain" for each compound.

Thus, it is submitted that the prior art, in combination, at best provides an obvious-to-try situation without an explanation as to how to use the compounds or a clear expectation of success. However, even if one could make a *prima facie* obviousness case, one would not expect the surprisingly superior results which are obtained with the present invention as compared with closely related prior art.

In view of the above, withdrawal of the rejections and allowance of the application are respectfully requested.

Respectfully submitted,

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